

Brett D. Schandelson

Written Testimony in Support of HB 541: A Bill to Re-classify Marijuana Possession in Montana

To the House Judiciary Committee:

I am writing today as a citizen and a criminal defense attorney, but most importantly, I'm here as a concerned Montanan. When considering this bill I urge this committee to engage in an honest dialogue about marijuana possession in Montana. I am confident that after a full discussion and consideration of facts – not **propaganda**, not **scare tactics**, not an **antiquated view of morality** – but facts, this committee will come the same conclusion that most of America has: that prohibition has failed.

That prohibition has failed is clear. It is time to take the first step towards a more responsible drug policy and HB 541 is that first step.

Marijuana possession prosecutions have a number of negative societal problems. Pragmatically, every hour that police are investigating and arresting marijuana users, they are not investigating and arresting other, more serious crime. Every case that prosecutors pursue against marijuana users places an undue burden on the criminal justice system. Every person convicted of marijuana possession has to face enormous fiscal, social, and emotional consequences. I have personally seen the damage simple marijuana possession can inflict, and it is entirely unnecessary damage.

There is a better, more responsible way.

When passed, HB 541 will reduce or eliminate the enormous strain placed on the criminal justice system by marijuana possession cases. It will eliminate the vast majority of time spent investigating, arresting, booking, jailing, and prosecuting simple marijuana possession cases. Additionally, for these mostly otherwise law-abiding citizens, the penalties will much more accurately reflect the real cost of marijuana.

Currently, for a first offense misdemeanor marijuana possession conviction the offender can face up to six months in jail, up to a \$500 fine, and mandatory drug education course. Further, and often more importantly, there are a litany of possible "collateral consequences" of a drug conviction, including: probation, mandatory drug testing, loss of employment, loss of child custody, removal from subsidized

housing, asset forfeiture, loss of student aid and student loan eligibility and loss of adoption rights. HB 541 will replace this draconian and archaic scheme with a simple fine, and since the bill forbids recording like a conviction, many, if not all, of the collateral consequences will be eliminated or diminished.

Additionally, HB 541 will begin changing attitudes towards marijuana use in Montana.

Currently, otherwise law-abiding citizens fear law enforcement instead of turning to them for protection. And they have good reason to fear. Drug task forces now resemble para-military organizations and prosecution offices often see no distinction between minor marijuana possession cases and other types of drug cases, despite strong evidence regarding the differences, and pursue marijuana cases with the same vigor and ideology as admittedly much more serious crimes.

I have personally seen the damage ignorance and propaganda, when acted upon by those in power, can do. I have seen talented and gifted individuals denied opportunities solely because of simple marijuana possession and use, often without even a conviction. For example, the United States Attorney's office for the District of Montana took the stance that any marijuana use, regardless of whether an arrest was made or conviction was obtained, would disqualify an individual from employment as a law clerk. Regardless of one's merits, skills, talent, or worth – any marijuana use whatsoever would disqualify that individual. That the US Attorney's office made no distinction between marijuana and other drugs is clear when one applicant was told that casually using marijuana in college is, quote "no different than selling meth to kids" endquote. This ignorance is frightening.

But this can change, and it is time for a change. HB 541 is the first step towards real, honest change.

I thank you for your time, and your consideration of this bill.

Sincerely,

Brett D. Schandelson

Criminal Defense Attorney

2200 Brooks St.

Missoula, MT 59806

## *Citizens for Responsible Crime Policy*

PO Box 8022 \* Missoula, Montana 59807

### HB 541- Testimony

My name is Angela Goodhope. I am Director of a statewide, non-profit public education group called Citizens for Responsible Crime Policy. Citizens for Responsible Crime Policy \*CRCP\* believes in safer, smarter alternatives to prison, better use of tax-payer dollars AND more effective and appropriate use of Law Enforcement resources. In particular, our members believe that key aspects of our current drug policies are actually counter-productive, and that we could achieve better results, more humanely, using far less tax money.

I have served on the Missoula Community Oversight Committee since the passage of an initiative in 2006 in Missoula County asking all law enforcement to treat adult marijuana as their lowest law enforcement priority.

I have been active in drug policy reform for the past 10 years. I have organized various events, marches, rallies, conferences, campaigns, etc. I am also a single mom who volunteers in and around Missoula for various community events and citizen education and involvement processes. I am out and amongst the people. I talk to them, I listen to their stories- I feel their angst about the current punitive, wasteful position we have taken against marijuana choosers.

I am known as a person involved in drug policy issues. On weekly basis, I take calls from mothers, grandmothers, wives, sisters, fathers, brothers, and crime victims themselves about an incident/arrest/ or charges pending regarding small quantity marijuana possession. I wish all those people could be here today so you could hear the vehement passion, desperation, and sometime indignation in their voices about the situations they face.



As it is, marijuana carries with it a stigmatized reputation. Sometimes mere association with the term can cause ruin in people's lives, far worse than any effects of marijuana itself. Hence, and because of our 'reefer madness' mentality, people are rightly hesitant to come to Helena and spell out their last names into a mike for all to hear. Please keep this in mind when considering this bill. Just to give an example, someone asked me if she could use a pseudonym when calling members of this committee, because she works in healthcare and is afraid of being fired.

A lot of people who strongly support HB 541 are afraid to say so. Even the many people who don't use marijuana and don't care about it – but who agree with this bill – are afraid that supporting it publicly would lead others to believe that they do use marijuana, even when they don't.

I also have a lot of conversations with people who have used marijuana, sometimes routinely, other times in the past, but who have never had a run in with the law while possessing marijuana. These good, loving, hardworking, folks are your neighbors, some teachers, nurses, doctors, lawyers, politicians- all kinds of people have possessed marijuana during their lifetime. People are usually delighted to hear what I do for living. It gives them hope and they usually leave the conversation with a smile.

Some people only have a public defender to go to, to ask questions. As we all know, public defenders are VERY busy. People are often shocked to understand the severe ramifications of pleading guilty to a small quantity marijuana offense. Such offense can RUIN someone's life. And unfortunately, most people in Montana convicted of small quantity misdemeanor marijuana offenses are between the ages of 18 and 22 -- so their lives are just beginning.

If HB 541 could successful pass through this legislature and be signed into law, the state of Montana would redirect – to a much more effective use – tens of thousands if not hundreds of thousands of tax-payer dollars. This bill would free up law enforcement to go after crimes that have injured victims, that affect lives and property in drastically harmful ways.



Meanwhile, several thousand Montanans each year – the number of people currently arrested for the small-quantity possession offense involved in HB 541 – would be penalized, but wouldn't suffer lifelong negative consequences. They wouldn't lose eligibility for student aid, for example, or the right to ever own or use a gun or rifle in their lifetimes. Those people could continue to dream about and strive toward any type of career they wanted. As it is now, people with misdemeanor drug conviction, myself included, must carefully choose their future path and always keep in mind that certain opportunities will never be open for them or their families.

I know from personal experience – from how Montanans of all ages and backgrounds react to meeting me and learning about my work on marijuana issues, that most Montanans support the ideas of HB 541. In fact, marijuana prohibition is seen as a joke to most -- until that person or someone they love is facing the punitive effects of an arrest.

If we had 100% enforcement of marijuana prohibition in this state, just imagine how many people would be either incarcerated, on probation, unable to go to school, unable to apply for certain jobs- the people who use marijuana in this state are your neighbors in the privacy of their own homes, some of your friends, your relatives. These aren't the folks we should be labeling as criminals. For that matter, if we had 100% effective enforcement of marijuana laws in America, the current and our past two Presidents would have had criminal records and would never have served.

Research on the effects that the HB 541 policy has had elsewhere clearly supports the benefits Montana would realize under this bill. The policy we've had for the past several generations hasn't worked. I urge you to give this policy change a try.

It is time for the Montana House of Representatives to at least discuss and consider the merits of this idea on the floor of the House, where all members can participate. I hope you will give HB 541 a "Do Pass" recommendation.